

Dear Senators Ricks, Adams, Rabe, and
Representatives Cannon, Weber, Gannon:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the State Tax Commission:

IDAPA 35.01.03 - Property Tax Administrative Rules-Proposed Rule (Docket No. 35-0103-2601).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 10/23/2026. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/20/2026.

The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the memorandum attached below.



Terri Kondeff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Local Government & Taxation Committee and the House Revenue & Taxation Committee

FROM: Senior Legislative Drafting Attorney - Peter Cook

DATE: October 6, 2026

SUBJECT: State Tax Commission

IDAPA 35.01.03 - Property Tax Administrative Rules-Proposed Rule (Docket No. 35-0103-2601)

Summary and Stated Reasons for the Rule

The State Tax Commission submits notice of proposed rulemaking for IDAPA 35.01.03 - Property Tax Administrative Rules. Questions regarding Rules 418, 609, and 610 were submitted to the Commission, which provided a written response to each. The Commission's response to each item is summarized immediately following the discussion of that item.

As a general matter, the Commission explained that the descriptive summary was initially prepared for negotiated rulemaking and was not subsequently updated for the proposed rulemaking. The Commission stated that it has been informed the descriptive summary can be updated in the January Bulletin, which it indicated would address several of the questions identified in this memorandum.

The descriptive summary of the proposed rules contains the following explanations for the substance and purpose of the proposed rules:

(1) To amend Rule 609 (Homestead Exemption), to align with changes to section 63-602G, Idaho Code, from House Bill 843 (2026) that eliminated proration of the homestead exemption. It appears that these changes align with the changes to the statute. However, it appears that the proposed rule also deletes subsection 609.04 (Determination of Residency), which authorizes the Commission to share income tax residency information with county assessors pursuant to section 63-3077(4), Idaho Code. This change does not appear to be discussed in the descriptive summary.

Commission's Response: The Commission states that the deletion of subsection 609.04 was intended as cleanup rather than a substantive change, as the provision largely restates statutory authority found in sections 63-602G(6) and 63-3077, Idaho Code, concerning the use of income tax information in determining eligibility for the homestead exemption. The Commission further states that the omission of this change from the descriptive summary will be corrected in the January Bulletin.

(2) To amend Rule 610 to remove cross-references to subsection 609.03. However, it appears that in addition to removing cross-references, the proposed rule removes subsection 610.02.b (the definition of "Mul-

Paul Headlee, Deputy Director Legislative Services Office	Matt Drake, Manager Research & Legislation	Keith Bybee, Manager Budget & Policy Analysis	April Renfro, Manager Legislative Audits	Norma Clark, Manager Information Technology
--	---	--	---	--

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
legislature.idaho.gov

tidwelling or Multipurpose Building"). The descriptive summary does not appear to include discussion of this change, and there still remains a mention of the term "Multidwelling or Multipurpose Building" in subsection 610.09.

Commission's Response: The Commission states that subsection 610.02.b was deleted because it is a restatement of section 63-602G(2)(a), Idaho Code, and that the omission of this change from the descriptive summary will be corrected in the January Bulletin. The Commission states that it retained subsection 610.09 because it also addresses "Related Land," which has a specific application in property assessment, and notes that the definition of "Related Land" is found in subsection 610.02.c, which is being renumbered as subsection 610.02.b.

(3) To delete Rule 618 (Computation of the Idaho Irrigation Exemption), because it is no longer relevant following the passage of House Bill 329 (2025), which added section 63-3502C, Idaho Code, that manages kilowatt-hour tax exemptions on irrigation equipment. This change appears to align with the stated change in the statute.

(4) To add a new Rule 418 (Kilowatt Hours and Therms Tax) to the Property Tax Administrative Rules to implement certain provisions added by House Bill 722 (2026), which amended sections 63-405 and 63-3503C, Idaho Code. Specifically, the new Rule 418 establishes procedures for the recalculation and allocation of kilowatt-hour and therms tax revenue proportions to various taxing districts, units, or urban renewal revenue allocation areas (hereinafter "district(s)"). Although it appears that the proposed rule attempts to implement the recent changes to statute, the following items were raised with the Commission:

(a) Proposed subsection 418.01.a addresses what is termed a "split," providing that if a district splits and "the combined boundary of the successor taxing district . . . is identical to the original boundary, the proportional allocation will be changed by determining the proportion of the taxable value of the splitting taxing district or unit, or urban renewal revenue allocation area, within each successor taxing district . . ." However, the rule does not define the term "split," and as written, the term could be broad enough to encompass a boundary change that results in the formation of a new district. Additionally, because the language appears to provide for allocations to "each successor taxing district," clarification may be helpful that the rule does not contemplate distributions to any district formed after January 1, 2025, consistent with section 63-3503C(4), Idaho Code, which provides that "[a] new taxing district or revenue allocation area formed after January 1, 2025, shall not be eligible for a tax distribution pursuant to this section."

Commission's Response: The Commission states that a "split" is intended to describe a reorganization in which the combined boundaries of the successor districts are identical to the boundary of the original district. As an example, if School District A divides into School Districts A1 and A2, and their combined boundaries equal the former boundary of District A, the Commission intends to treat the event as a continuation and division of the existing district rather than a dissolution followed by the creation of unrelated new districts, with District A's existing allocation divided between A1 and A2 based on taxable value. The Commission states that successor districts created through this type of reorganization are not intended to be "new taxing districts" for purposes of section 63-3503C(4), Idaho Code. In support, the Commission notes that eligibility under section 63-405(3), Idaho Code, depends on property tax having been levied or allocated in tax year 2025, and that a successor district distributing its predecessor's share based on 2025 amounts is not claiming a new entitlement as a genuinely new district would. The Commission also states that a split is the inverse of a consolidation, and that subsection 418.01.a mirrors the logic of section 63-3503C(5), Idaho Code, which treats a consolidation as a continuity event by entitling the resulting district to the sum of the distributions that would have been made to each district before consolidation.

(b) The Commission's descriptive summary states that the proposed rule's components "are necessary to ensure the proportional tax is not reapportioned to surviving districts after a dissolution." However,

section 63-405(3)(a), Idaho Code, appears to require reapportionment to the overlapping surviving districts ("The state tax commission shall reapportion the kilowatt-hour and thermal energy tax revenue that would have accrued to the dissolving district . . . The reapportioned tax shall be distributed to each otherwise eligible taxing district . . . in the county with boundaries that overlapped the dissolved district . . ."). Subsection 418.01.c also requires disbursements to districts according to "the proportions of the remaining districts."

Commission's Response: The Commission states that the reference to "surviving districts" was intended to address the timing of reapportionment following a dissolution. Section 63-405(3), Idaho Code, provides for reapportionment in the year immediately following the dissolution, with notice to the county auditor of the changed proportions by the first Monday in March of that year, but the statute is silent as to how distributions are handled in the interim during the year in which the dissolution occurs. As an example, the Commission notes that if three districts each receive one-third of the distribution and one district dissolves, the existing proportions would continue to direct one-third of the distribution to the dissolved district until the Commission recalculates the proportions the following March, and the statute does not provide a mechanism for handling that portion of the distribution during the interim period.

(c) Subsection 418.01.c of the proposed rule states that "the board of county commissioners determines any redistribution of remaining monies that would have been disbursed to the dissolved district." However, it does not appear that the board of county commissioners is mentioned in sections 63-3503C or 63-405(3), Idaho Code, which assign reapportionment to the Commission, notification to the county auditor, and distribution through the county treasurer and auditor.

Commission's Response: The Commission states that the provision is intended to address the same timing gap described in item (b), when a district dissolves after the January distribution but before the Commission can recalculate the proportions the following March. The Commission states that, in developing the provision, it looked to the treatment of dissolved or disincorporated special purpose taxing districts in section 63-3638(10)(c)(v) and (11), Idaho Code, which provides a similar process for handling distributions following a dissolution.

Negotiated Rulemaking / Fiscal Impact

The Commission states that negotiated rulemaking was conducted, and the Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2026, Bulletin 35-0103-2601, Idaho Administrative Bulletin, Vol. 26-7, page 89. The Commission also states that no new fees are reflected in the rulemaking and that no negative fiscal impact to the General Fund exceeding \$10,000 is anticipated.

Statutory Authority

The Commission appears to have the authority under chapter 1, title 63, Idaho Code, and chapter 52, title 67, Idaho Code, to promulgate the proposed changes to Rules 609, 610, and 618. As to the addition of proposed Rule 418, the Commission has provided the explanations summarized in item (4) above, and these may be helpful for the committees' consideration regarding how the proposed rule relates to sections 63-405 and 63-3503C, Idaho Code.

cc: State Tax Commission
Philip Johnson

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 35 – STATE TAX COMMISSION

35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-2601

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section [67-5221\(1\)](#), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section [63-105](#), Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Thursday, September 10, 2026 1:00 p.m. (MT)
In person: Coral Conference Room Idaho State Tax Commission 11321 W. Chinden Blvd., Bldg. 2 Boise, ID 83714-1021 Virtual: Join from the meeting link https://idahogov.webex.com/idahogov/j.php?MTID=m1f19df25878ed393ed666fcbdb97a613 Meeting number: 2864 231 2179 Meeting password: MShXc7JiQ74 Join by phone: +1-415-655-0001 US Toll Meeting number: 2864 231 2179

The hearing site(s) will be accessible to people with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The State Tax Commission will perform a critical review of changes to statutes and existing rules chapter. We will rewrite sections of this chapter by standard rulemaking and contemplate the following:

- Rule 609 (Homeowners Exemption Timing): Modified to align with [House Bill 843](#). The statute changed the primary residential exemption structure from a partial-year or full-year calculation to a strict full-year-only timeframe. The rule is being updated to prevent county assessors from mistakenly removing valid exemptions mid-year.
- Rule 610 (Cross-Reference Update): This is a purely technical cleanup. Because Rule 610 directly references the criteria in Rule 609, it must be adjusted to match the new full-year timeline terminology.
- Rule 618 (Irrigation Exemption Mechanism): This section is being completely deleted because it is entirely obsolete. A previous legislative session passed [House Bill 329](#), which revoked Idaho Code Section [63-602N](#) and created a completely separate mechanism pursuant to Idaho Code Section [63-3502C](#) for managing kilowatt hour tax exemptions on irrigation equipment.
- Taxing District Splits (Successor Apportionment): To incorporate [House Bill 722](#), a new Rule Section 418 is being added. It clarifies that when a school district, taxing unit, or urban renewal area splits into successor districts, the action will not be legally treated as a “dissolution” for tax reapportionment purposes. The rule

establishes how existing allocation proportions will be divided among successor districts following a split. It also reinforces the existing treatment of consolidations, which serves as the underlying allocation framework from which successor district proportions are derived. Both components are necessary to ensure the proportional tax is not reapportioned to surviving districts after a dissolution.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2026, Bulletin 35-0103-2601, Idaho Administrative Bulletin, Vol. 26-7, page 89.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: There are no documents incorporated by reference affected by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Garin Evans at garin.evans@tax.idaho.gov or (208) 332-6624.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 2, 2026.

DATED this 2nd day of September, 2026.

Philip Johnson, Tax Research Specialist/Rules Officer
Idaho State Tax Commission
11321 W. Chinden Blvd., Bldg. 2, Boise ID 83714
PO Box 36, Boise ID 83722-0036
philip.johnson@tax.idaho.gov
(208) 334-7505

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0103-2601
(Only Those Sections With Amendments Are Shown.)

35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

418. KILOWATT HOURS AND THERMS TAX.
Sections 63-405, 63-3503C, Idaho Code

01. Recalculation of Allocation Proportions Following a Certain Taxing District, Unit, or Urban Renewal Revenue Allocation Area Boundary Change. Description of recalculation given the following boundary changes: ()

a. When a taxing district or unit, or urban renewal revenue allocation area, splits, and the combined boundary of the successor taxing district or unit, or urban renewal revenue allocation area, is identical to the original

boundary, the proportional allocation will be changed by determining the proportion of the taxable value of the splitting taxing district or unit, or urban renewal revenue allocation area, within each successor taxing district or unit or urban renewal revenue allocation area. The county will be notified of these changes by the first Monday of March in the year immediately following the boundary changes. ()

b. When taxing districts or units, or urban renewal revenue allocation areas, consolidate, the allocation proportions will equal the sum of the most recent proportions prior to consolidation. ()

c. When a taxing district or unit, or urban renewal revenue allocation area dissolves after the January payment to the county, the following July and January tax disbursements will be distributed by the county according to the proportions of the remaining districts, the board of county commissioners determines any redistribution of remaining monies that would have been disbursed to the dissolved district. The Tax Commission will recalculate the proportions in March of the year following the dissolution. ()

4189. -- 508. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

609. PROPERTY EXEMPT FROM TAXATION -- HOMESTEAD.

Sections 63-602G, 63-701, 63-703, and 63-3077, Idaho Code

01. Homestead Exemption. Granted in 63-602G, Idaho Code. (7-1-24)

02. Partial Ownership. Any partial ownership is ownership for determining qualification for the homestead exemption. The amount of the exemption is equal to the percentage of ownership. If a person has five percent (5%) or greater ownership interest in a limited partnership, limited liability company or a shareholder of a corporation, there is no partial ownership adjustment to the homestead exemption. See homestead calculation examples at <https://tax.idaho.gov>. (7-1-24)

03. Part Year Ownership. For qualifying taxpayers who claimed the homestead exemption on an eligible property, the homestead that qualified on January 1 of the current tax year will continue to receive the exemption, ~~provided however, the assessor may remove that property's exemption if the taxpayer owns a different homestead and requests that the exemption be transferred to the second homestead~~ in the current year. (7-1-24) ()

~~**04. Determination of Residency.** The Tax Commission may release pertinent information from any Idaho income tax return to the county assessor and the county board of equalization for the sole purpose of providing one (1) indicator of eligibility for the homestead exemption. According to Section 63-3077(4), Idaho Code, this information is confidential and is not subject to public disclosure.~~ (7-1-24)

054. Notification of Erroneous Claims. When it is determined that an exemption granted under this Section to a taxpayer who has also received property tax relief under Chapter 7, Idaho Code, should not have been granted, the county assessor will notify the Tax Commission of the determination. (7-1-24)

610. PROPERTY EXEMPT FROM TAXATION -- RESIDENTIAL IMPROVEMENTS -- SPECIAL SITUATIONS.

Sections 63-602G, 63-701(2), Idaho Code

01. Scope. This rule addresses issues relating to the homestead exemption as it applies to certain unusual factual situations. It states general principles applicable to unusual cases. The principles established may apply to the resolution of situations not addressed in the rule. (7-1-24)

02. Definitions. The following definitions apply to this rule: (7-1-24)

a. As used in this rule, dual residency couple means a married couple, each of whom has established a different dwelling place as their primary dwelling place as defined in Section 63-602G, Idaho Code, ~~and Subsection~~

~~609.03 of these rules.~~

~~(7-1-24)()~~

~~b. Multidwelling or Multipurpose Building means a building which is the primary dwelling place of the owner and which has a portion used for any purpose other than the primary dwelling place of the owner. (7-1-24)~~

~~eb.~~ Related Land means land, not to exceed one (1) acre, that is reasonably necessary for the use of the dwelling as a home. (7-1-24)

03. Dual Residency Couples -- General Principles. (7-1-24)

a. Whether a particular residential improvement is an individual's primary dwelling place is a question of fact for each individual. Each spouse of a dual residency couple can maintain a separate primary dwelling place for purposes of the homestead exemption. ~~The test to be applied is the general test set out in Subsection 609.03 of these rules.~~ (7-1-24)()

b. If a residential improvement is community property, either spouse can file an application for the homestead exemption regarding community property on their own authority. The signature of the other spouse is not required on the application. See Section 32-912, Idaho Code. (7-1-24)

c. Neither spouse is a partial owner of community property. (This principle is an exception to laws generally governing community property interests. It applies only for matters relating to the homestead exemption or the circuit breaker property tax relief program. See Section 63-701(7) Idaho Code.) Thus, there is no authority to reduce the value of the improvement proportionally to reflect one (1) spouse's ownership in community property before determining the amount of the homestead exemption. For purposes of the exemption, a community property interest is treated the same as a full ownership interest. (7-1-24)

d. An owner may apply only once for the homestead exemption. See Section 63-602G(c), Idaho Code. Thus, an application by one (1) spouse regarding a residential improvement that is community property, precludes the other spouse from making a second application on any other residential improvement whether held by the other spouse as community or separate property except as provided in Subsection 610.07. (7-1-24)

04. Both Residences are Community Property. (7-1-24)

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement, each of which is owned by the couple as community property. Each applies for the homestead exemption for the residence in which he or she resides. (7-1-24)

b. The first application is valid. Any subsequent application, though filed by the other spouse, is not valid because the couple can not make more than one (1) application. The homestead exemption applies to the full value of the first residential improvement to qualify without any proportional reduction. The other residential improvement does not qualify. (7-1-24)

05. One Residence Is Community Property, the Other Is Separate Property. (7-1-24)

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement. One (1) is owned by the spouse who resides in it as his or her separate property, the other is owned by the couple as community property. Each applies for the homestead exemption for the residence in which he or she resides. (7-1-24)

b. The first application is valid. Any subsequent application, though filed by the other spouse, is not valid. If the first application relates to the community property, it is an application on behalf of both members of the community. Thus, the other spouse can not file a second application relating to his or her separate property. If the first application relates to the separate property, then the subsequent application relating to the community property is a second application by the spouse owning the separate property and is not valid. The homestead exemption applies to the full value of the first residential improvement to qualify without any proportional reduction. The other residential improvement does not qualify. (7-1-24)

06. Both Residences are Separate Property. (7-1-24)

a. Each member of a dual residency couple maintains their primary dwelling in a different residential improvement, each of which is owned by the spouse residing in it as their separate property. Each applies for the homestead exemption for the residence in which he or she resides. (7-1-24)

b. Both residential improvements qualify for the full homestead exemption. Neither application is a second application by the same owner. Each spouse is the sole owner of the residential improvement, so the proportional reduction provisions for partial ownership do not apply. (7-1-24)

07. Apportionment of Homestead Exemption by Dual Residency Couples. Both spouses of a dual residency couple may elect to equally apportion the homestead exemption between the two (2) residential improvements if each files a written election with the county assessor of the county in which each property is located. When the election is made each residential improvement is entitled to one-half (1/2) of the exemption applicable to that property alone. The total exempted value of both properties will not exceed the amount of exemption available to the individual residential improvement with the greatest market value if no election were made. (7-1-24)

08. Multiple Ownerships Including Community Interests as Partial Owners. A community property interest in a residential improvement is a partial ownership when combined with the ownership of another individual who is not a member of the marital community. For example, if a deed conveys title to real property to a married couple and to an adult child of theirs, the married couple hold a community property interest in the improvement and the child is a tenant-in-common provided ownership interests are not specified in the deed. The parents collectively hold a one-half (1/2) partial interest and the child holds a one-half (1/2) partial interest in the property. Ownership interests specified in the deed supersede this guidance. Qualification of the property for the homestead exemption is as follows: (7-1-24)

a. If the residential improvement is the primary dwelling of the married couple but not the child, the homestead exemption applies to one-half (1/2) of the value of the improvement. (7-1-24)

b. If the residential improvement is the primary dwelling of the child, but not either spouse, the homestead exemption applies to one-half (1/2) of the value of the improvement. (7-1-24)

c. If the residential improvement is the primary dwelling of the married couple and child, the homestead exemption applies to the full value of the improvement. (7-1-24)

d. If the residential improvement is the primary dwelling of one (1) spouse but of neither the other spouse nor the child, the homestead exemption applies to one-half (1/2) of the value of the improvement unless the residential improvement of the other spouse has previously qualified for the homestead exemption under the dual residency couple rules set out in Subsections 610.02 through 610.07. The one-half (1/2) qualification results from the statutory provision that a community property interest is not considered a partial interest of either spouse. See Paragraph 610.03.c. of this rule. (7-1-24)

e. If the residential improvement is the primary dwelling of one (1) spouse and the child, the homestead exemption applies to the full value of the improvement unless the residential improvement of the other spouse has previously qualified for the homestead exemption under the dual residency couple rules set out in Subsections 610.02 through 610.07. (7-1-24)

09. Determining the Qualifying Portion of a Multidwelling or Multipurpose Building and the Related Land. The portion of a Multidwelling or Multipurpose Building and Related Land used for the primary dwelling place of the owner qualifies for the homestead exemption. When determining the value of the qualifying portion, the assessor will include the Related Land value. (7-1-24)

(BREAK IN CONTINUITY OF SECTIONS)

618. ~~COMPUTATION OF THE IDAHO IRRIGATION EXEMPTION.~~ (RESERVED)

~~Section 63-602N, Idaho Code~~

~~**01. Production and Delivery Ratio.** This ratio is computed by comparing the Idaho investment in production and delivery property to the investment for all Idaho unitary property. The resulting ratio will be known as the production and delivery ratio. (7-1-24)~~

~~**02. Idaho Production and Delivery Value.** This is computed by multiplying the allocated Idaho unitary value, before any exemptions, by the production and delivery ratio. (7-1-24)~~

~~**03. Irrigation Use Ratio.** This ratio is computed by comparing Idaho irrigation revenue to the total Idaho revenue from unitary operations. The resulting ratio will be known as the irrigation use ratio. (7-1-24)~~

~~**04. Idaho Irrigation Exemption.** This is computed by multiplying the Idaho production and delivery value by the irrigation use ratio. (7-1-24)~~